

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

CHERISH RODDEN,
Plaintiff,

v.

D & G TRUCKING COMPANY, INC.
and JERMAINE E. FOWLER,
individually,
Defendants.

§
§
§
§
§
§
§
§

CIVIL ACTION NO. 21-1954

DEFENDANT D & G TRUCKING COMPANY, INC.'S NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COME D & G Trucking Company, Inc., Defendant herein, and files this Notice of Removal, removing this case to federal court under 28 U.S.C. §§ 1332, 1441 and 1446, and in support there of, would show as follows:

A. Introduction

1. This lawsuit arises out of an alleged motor vehicle accident. The accident is alleged to have occurred in Hunt County, Texas. (Plaintiff's Original Petition, p. 2, §III.)
2. Plaintiff is a citizen of the State of Texas.
3. Plaintiff has named trucking company, D & G Trucking Company, Inc. as a Defendant, which is not a Texas citizen. Plaintiff has named driver, Jermaine E. Fowler as a Defendant, who is also not a Texas citizen.
4. Plaintiff's pleadings state that she seeks relief over \$1,000,000.00 in this case. (Plaintiff's Original Petition, p. 1, §I.)

5. Thus, there is diversity of citizenship among the parties and Defendant D & G Trucking Company, Inc. removes this case to federal court under 28 U.S.C. §§ 1332, 1441 and 1446.

B. Basis for Removal

6. Removal is proper under 28 U.S.C. §§ 1332, 1441 and 1446 because there is complete diversity of citizenship and the amount in controversy exceeds \$75,000 and this removal is filed within 30 days after the service on Defendant.

7. There is complete diversity of citizenship as follows:

(a) Plaintiff is a Texas citizen. *See Freeman v. Northwest Acceptance Corp.*, 754 F.2d 553, 555-56 (5th Cir. 1985).

(b) Defendant D & G Trucking Company, Inc. is a corporation organized and existing under the laws of the State of Tennessee, with its principal place of business in Puryear, Tennessee. Thus, it is a citizen of Tennessee and diverse from Plaintiff. *See* 28 U.S.C. § 1332(a).

(c) Defendant Jermaine E. Fowler is an individual residing in Tennessee. Thus, Jermaine E. Fowler is a citizen of Tennessee and diverse from Plaintiff. *See* 28 U.S.C. § 1332(a).

8. Plaintiff's pleadings state that she seeks relief in excess of \$1,000,000. (Plaintiff's Original Petition, p. 1, §I.) *See S.W.S. Erectors Inc. v. Infax Inc.*, 72 F.3d 489, 492 (5th Cir. 1996) (removing defendant can rely on plaintiff's statement of amount in controversy); *see also* 28 U.S.C. § 1446(c).

9. Defendant D & G Trucking Company, Inc.'s notice of removal is timely, as it is filed within 30 days of its being served with a pleading stating a removable case. *Alim v. KBR, Inc.*, No. 13-11094, 2014 U.S. App. LEXIS 10508, at *4 (5th Cir. 2014) (unpub.) (30-day deadline for removal runs from the defendant's receipt of a pleading setting forth a removable claim).

10. Copies of all pleadings, process, orders, and other filings in the state-court suit will be submitted once received to support this notice as required by 28 U.S.C. §1446(a).

11. Venue is proper in this district under 28 U.S.C. §1441(a) because the state court where the suit has been pending, the 196th Judicial District, is located in this district.

12. Defendant will promptly file a copy of this notice of removal with the clerk of the state court where the suit has been pending.

C. Jury Demand

13. Plaintiff has demanded a jury trial.

D. Conclusion

14. There is complete diversity of citizenship and the amount in controversy exceeds \$75,000. Thus, there is diversity jurisdiction over this matter and removal is proper as set forth herein.

Respectfully submitted,

NAMAN, HOWELL, SMITH & LEE, PLLC
400 Austin Avenue, 8th Floor
Waco, Texas 76703-1470
254.755.4100 / Facsimile 254.754.6331

BY: /s/Jordan A. Mayfield
JORDAN A. MAYFIELD
State Bar No. 24037051
mayfield@namanhowell.com
JACQUELINE ALTMAN
State Bar No. 24087010
jaltman@namanhowell.com

NAMAN, HOWELL, SMITH & LEE, PLLC
1300 Summit Ave., Suite 700
Fort Worth, Texas 76102
(817) 509-2044 / Facsimile: (817) 509-2060

MICHAEL SHANE O'DELL
State Bar No. 24065835
sodell@namanhowell.com

**ATTORNEY FOR DEFENDANT
D & G TRUCKING COMPANY, INC.**

CERTIFICATE OF SERVICE

I certify that on this the 20th day of August, 2021, a true and correct copy of the foregoing has been served upon all counsel of record in this action, in accordance with the Federal Rules of Civil Procedure by ECF Filing.

/s/ Jordan A. Mayfield
JORDAN A. MAYFIELD